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FISCAL IMPACT REPORT

	ORIGINAL DATE	1/29/07	
SPONSOR <u>Papen</u>	LAST UPDATED	3/17/07	HB _____
			519/aSPAC/aSFC/
SHORT TITLE <u>MFA Oversight of Regional Housing Authorities</u>			SB <u>aHBIC</u>
			ANALYST <u>Leger/Kehoe</u>

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
\$2,900.0		Nonrecurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Mortgage Finance Authority (MFA)

SUMMARY

Synopsis of HBIC Amendment

The House Business and Industry Committee amendment proposes the following:

Item 1, strikes Senate Public Affairs Committee number 1.

Item 2, strikes Senate Finance Committee number 1.

Item 3, expands the title of the bill to require reporting requirements and allow transferring of bonding capacities.

Item 4, provides the following:

- 1) that the New Mexico Mortgage Finance Authority shall have the authority to issue bonds, notes, interim certificates, debenture or other obligations rather than the regional housing authority or a nonprofit corporation created by an authority; and makes grammatical changes to the definition of “housing project”, “low-income person”, and “slum”;
- 2) that a regional authority created by the Regional Housing law shall operate only within the

area of its housing region;

3) that no more than three commissions shall be appointed to a regional authority from any one county;

4) that the executive director of a regional housing authority is subject to approval by the New Mexico Mortgage Finance Authority;

5) that each regional housing authority shall submit a copy of its audit to the Legislative Finance Committee, the New Mexico Mortgage Finance Authority, and the New Mexico Mortgage Finance Authority Act Oversight Committee within 30 days following the receipt of the audit by the authority;

6) that the Department of Finance and Administration (DFA) shall review each regional authority's audit for approval, and upon finding of non-approval by DFA, that the regional authority's powers may be suspended by DFA until the conditions that resulted in non-approval are remedied to the satisfaction of DFA;

7) provides that effective October 1, 2007, every regional authority shall submit a quarterly report of its activities to DFA, the Mortgage Finance Authority Act Oversight Committee and the Legislative Finance Committee, and requires that each report provide a complete operating and financial statement covering its operations since the previous report was presented;

8) removes the power of authorities to acquire real property by exercise of power of eminent domain;

9) removes provision allowing any two or more cities or authorities to join or cooperate with one another to exercise, jointly or otherwise, any of their powers for the purpose of financing, including the provision of security for or the issuance of bonds or contracting with respect to a housing project located within the area of operation of any one or more of the cities or authorities, and removes their authority to authorize by resolution another authority to act on its behalf to exercise, as its agent, any power granted to the city or authority, nor may the authority act in the name of the city, the authorizing authority or in its own name;

10) requires Board of Finance and New Mexico Mortgage Finance Authority approval of any resolutions creating nonprofit corporations to carry out the provisions of the Regional Housing law, including the authority's articles of incorporation and by laws or any other subsequent changes;

11) Adds a new section to provide for financial and operations oversight. The provision provides that no regional authority shall enter into any contract, memorandum of understanding or other agreement with a value greater than \$50,000 or transfer, sell or liquidate any real or personal property with a value greater than \$20,000 without the approval of DFA. The provision further provides that each regional authority and each nonprofit corporation submit a proposed operating budget for the subsequent fiscal year to DFA for approval by July 1 of each year. Effective July 1, 2007, no authority shall operate according to Regional Housing Law if its budget has not been approved by DFA. Further, operations of an authority shall be conducted pursuant to the approved operating budget except that: 1) budget adjustments totaling less than five percent of the operating budget may be made with prior notice to the DFA; and 2) budget adjustments

totaling five percent or more of the operating budget must get prior approval by DFA. Prior to each fiscal year, the New Mexico Mortgage Finance Authority must conduct a needs assessment of the programs of each regional authority and work with and advise each authority on developing a plan to meet the assessed needs and in conjunction with the state housing plan.

12) Includes a temporary provision requiring that no later than July 1, 2007, each nonprofit corporation exercising a power or performing any act under the Regional Housing Law shall submit its bylaws and articles of incorporation to the New Mexico Mortgage Finance Authority for approval. After September 1, 2007, a nonprofit corporation shall conduct no business under the Regional Housing Law unless its bylaws and articles of incorporation have been approved; by September 1, 2007, each executive director of a regional housing authority shall be approved by the New Mexico Mortgage Finance Authority or shall be deemed to have resigned; on September 1, 2007, the position of each commissioner of a regional housing authority who has not been appointed or reappointed by the governor after April 1, 2007 shall be deemed vacant; and notwithstanding any requirement of the Regional Housing Law for the sale of housing projects or units with housing projects for a specific purpose, with the prior approval of DFA, a regional housing authority may sell any property held on April 1, 2007, that is not suitable for the purposes of the Act.

The amendment provides for an appropriation of \$200 thousand to the state auditor for expenditure in fiscal years 2007 and 2008 for the purpose of conducting an accounting of all assets acquired by regional housing authorities pursuant to the regional Housing Law. The state auditor is required no later than December 1, 2007, to provide results of the accounting to the Legislative Finance Committee, the Mortgage Finance Authority Act Oversight committee and to DFA.

Sections 11-3A-11, 11-3A-14 through 11-3A-18 and 11-3A-27 (Laws 1994, Chapter 132, Sections 11, 14 through 18 and 27, as amended) are repealed.

Synopsis of SFC Amendment

On page 3, line 10, after the period insert:

“In selecting the transferee, the New Mexico mortgage finance authority shall give preference to those proposers who are employers of former employees of a high-performing regional housing authority as ranked by the United States Department of Housing and Urban Development.”

Synopsis of SPAC Amendment

The Senate Public Affairs Committee amendment to SB 519 makes technical changes to language; striking the word unexpected and inserting the word unexpended.

The change addresses the suggestion within the technical issues of this FIR.

Synopsis of Original Bill

Senate Bill 519 appropriates \$2.7 million from the general fund to Department of Finance and Administration (DFA) for the purpose of making disbursements to the New Mexico Mortgage

Finance Authority (MFA) for transitional, operational, and administrative expenses incurred in carrying out the provisions of SB 519.

Declaring an emergency.

This bill limits the powers of the regional housing authorities by repealing some sections of the Regional Housing Law immediately and the remaining sections of the Law no later than July 1, 2010. Effective July 1, 2007, all regional housing authorities shall be subject to the direction and control of the Mortgage Finance Authority (MFA); over time, all assets and program contracts currently held by regional housing authorities shall be transferred either to MFA, other governmental entities, and/or qualified private nonprofit entities.

FISCAL IMPLICATIONS

The appropriation of \$2.7 million contained in this bill is a nonrecurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of 2010 shall revert to the general fund.

\$2.5 million will be appropriated from the general fund to DFA for disbursement to MFA over a three-year period; \$155,000 for transitional expenses, \$1.7 million for operating expense, and \$645,000 for administrative expenses; to revert to the general fund at the end of FY2010. In addition, \$200,000 will be appropriated to the LFC to conduct an audit of the regional housing authorities; funds not expended or encumbered will revert to the general fund at the end of FY08.

SIGNIFICANT ISSUES

Performance reviews commissioned by the State Board of Finance and the State Investment Office cited a critical need for increased oversight and accountability for the regional housing authorities. If this bill is enacted, it will serve to stabilize a component of New Mexico's affordable housing delivery system and ensure its sustainability in the long term so that additional housing will be provided to those who need it most.

The first step in reforming New Mexico's regional housing system is to repeal the existing Regional Housing Law. Although this action implies that regional housing authorities will no longer exist in statute, MFA will assist currently functioning regional housing authorities to establish federally recognized non-profit housing service organizations and transition responsibilities to the non-profit corporations. Alternatively, MFA could assist a governmental entity (*e.g.*, a municipality or county) to create a multi-jurisdictional housing authority and responsibilities, staff, *etc.* could be transferred to the governmental entity.

Funds (\$2.5 million) appropriated through SB 519 will allow MFA over a three-year period to administer the operational component of the funding through a public solicitation that will prescribe services to be provided on a regional basis throughout New Mexico. MFA has indicated it will contract with housing service providers to deliver the services; oversight and accountability will be achieved through contractual means, and MFA will provide long-term compliance services in conjunction with these contracts just as it does with all other federal and state-funded housing contracts it currently administers. MFA also notes it has a seven-member Board of Directors that includes the Lieutenant Governor, the Attorney General, and the

Treasurer as well as four gubernatorial appointees. In addition to the board MFA also has a legislative oversight committee and is incorporated by the State Audit Act.

MFA points out the \$2.5 million in funding will serve three purposes: (1) to support housing service providers' operating costs associated with expanding into currently underserved areas, (2) to offset costs of creating a new statewide housing development organization, and (3) to support MFA administrative expenses associated with these activities. Importantly, this structure is flexible, it leverages existing expertise and capacity throughout the state and it enables providers to achieve economies of scale that cannot be realized in the existing regional housing statutory structure. MFA will assist in the development of the 501(c) (3) statewide housing development organization cited above whose sole function would be to develop housing in areas that currently lack necessary skill sets, labor, and/or administrative capacity to develop below market-rate housing.

Language within SB519 also appropriates \$200,000 to LFC to conduct an accounting of all assets acquired by regional housing authorities pursuant to the Regional Housing Law.

MFA states that based on the recommendations of both performance reviews commissioned by the State Board of Finance and the State Investment Office, appropriated operating funding is critical: funding sources exist to finance housing development costs; funding to support operating costs is extremely limited. In order to create a sustainable system that reaches all areas of the state, housing service providers must have an appropriate incentive to expand their geographic service areas beyond what is most economically feasible and logistically convenient.

PERFORMANCE IMPLICATIONS

In order for MFA to have a clear understanding as to the magnitude of the assets and liabilities the authorities have acquired/incurred under the Regional Housing Law, it will rely on the regional housing authority audit which will be conducted by LFC.

MFA indicates it will be unable to carry out administrative activities until it receives appropriated funds from DFA. MFA anticipates having to hire additional staff, purchase software, obtain training, and travel to meet with successful bidders on the public solicitation in order to coordinate program management. MFA also plans to assist the two high-performing regional housing authorities by paying for transitional costs they may incur in obtaining 501(c)(3) certification from the IRS, converting to different software systems (if necessary), training and travel, and recruiting and hiring new staff (if necessary). These costs will be offset using the “transitional” component of the appropriation identified in Section 4 (*i.e.*, \$155,000).

As previously stated, MFA will utilize the operating component of the appropriation (*i.e.*, \$1.7 million) to help offset operating costs of housing service providers that successfully bid in response to the public solicitation for housing services in underserved areas. MFA also plans to create a statewide non-profit housing development organization whose primary purpose will be to develop much-needed affordable housing throughout rural New Mexico: some of the \$1.7 million will be used to seed this organization. To this end, it will be important for MFA to receive disbursements from DFA timely in order to pass this funding through to these housing agencies.

ADMINISTRATIVE IMPLICATIONS

Section 4 of SB519 provides that \$645,000 of the \$2.5 million may be used for administrative expenses. MFA plans to hire staff to oversee the new housing service providers' management of federal public housing programs (which MFA currently does not administer). In addition to compensation and benefits for these employees, MFA must budget for software, training, travel, and other associated administrative costs it will incur beyond the first transition year. MFA stresses timely disbursements from DFA will have a direct impact their ability to administer these programs successfully on behalf of the state.

TECHNICAL ISSUES

MFA suggests the following correction be made:

line 8, page 6 (Section 4, Subsection C): “Any unexpected or unencumbered balance . . .” should be changed to read “Any *unexpended* or unencumbered balance . . .”

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

According to MFA, if SB519 is not enacted and if no action is taken during this legislative session to address the current regional housing authority structure, the regional housing authorities will continue to lack oversight and accountability. At present, two of the seven original regional housing authorities are operating well. Two others are troubled, and three are currently non-operational. In June 2006, the “New Mexico Regional Housing Authority Assessment” prepared by Community Strategies Institute for the State Board of Finance observed:

“There are currently some troubled Regional Housing Authorities. Unless improvements are made to the laws governing these entities, there will be future problems with some of the other Regionals. Mistakes have been made at the Regional level but little has been done by the state to promote success among the Regionals. The Regionals operating in a more responsive statutory framework could be important players in addressing the affordable housing demands that a fast-growing state faces.”

MFA concurs with this observation.

JL/LK:mt